

Attorney Docket No: IDF 2420 (4000-13300)

*Patent***REMARKS**

This application has been carefully considered in connection with the Examiner's Office Action dated March 30, 2006. Reconsideration and allowance are respectfully requested in view of the following.

**Summary of Rejections**

Claims 1-22 were pending at the time of the Office Action.

Claims 1, 2, 4-12 and 21 were rejected under 35 USC § 101 because the claimed invention is directed to non-statutory subject matter..

Claims 1, 4-9, 12 and 21 were rejected under 35 USC § 102(b) as being anticipated by Martino, II (U.S. Patent No. 5,983,265).

Claims 13-16 were rejected under 35 USC § 102(e) as being anticipated by Robinson (U.S. Publication No. US 2003/0115366).

Claims 2-3 and 22 were rejected under 35 USC § 103(a) as being unpatentable over Martino as applied to claim 1, and further in view of Robinson.

Claims 10 and 11 were rejected under 35 USC § 103(a) as being unpatentable over Martino as applied to claim 1, and further in view of Ishmael Jr., et al. (U.S. Publication No. US 2002/0143947).

Claims 17-19 were rejected under 35 USC § 103(a) as being unpatentable over Robinson as applied to claim 16, and further in view of Ishmael, Jr.

Claim 20 was rejected under 35 USC § 103(a) as being unpatentable over Robinson in view of Ishmael, Jr. as applied to claim 18, and further in view of Landfield, et al. (U.S. Patent No. 5,928,333).

**Summary of Response**

Claims 1, 11, 13-14, 16, and 21-22 were amended.

Claims 2-10, 12, 15, and 17-20 remain as originally filed.

Remarks and Arguments are provided below.

**Summary of Claims Pending**

Claims 1-22 are currently pending following this response.

**Response to Rejections under Section 101**

In the Office Action dated March 30, 2006, Claims 1, 2, 4-12 and 21 stand rejected under 35 USC § 101 because the claimed invention is directed to non-statutory subject matter.

In regard to the rejection of Claim 1, pursuant to the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, "When a computer program is recited in conjunction with a physical structure ... USPTO personnel should treat the claim as a product claim". As amended, the claimed modules are claimed as part of a system, or recited in conjunction with a physical structure. Therefore Claim 1 is directed to statutory subject matter. Support for the claimed third system is found in the instant disclosure at paragraph 19 and paragraph 21.

As the deficiencies of Claim 1 have been addressed above, Claims 2 and 4-12 are similarly statutory subject matter.

In regard to Claim 21, the Office Action indicated that the limitation of "reading the message" does not satisfy the tangible result requirement since it is an abstract result. While Applicant may agree that a user reading a message may be an abstract result, Claim 21 has been

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amended to recite "reading the message on the queue with the third application". Support for this amendment is found in the instant disclosure with the message manager 10 reading a message on the queue maintained by the messaging service 18 as disclosed in paragraph 19. As such, a tangible result is provided through the message manager 10, or third system, reading a message on the queue.

### **Response to Rejections under Section 102**

In the Office Action dated March 30, 2006, Claims 1, 4-9, 12 and 21 were rejected under 35 USC § 102(b) as being anticipated by *Martino, II* (U.S. Patent 5,983,265).

Claim 1 has been amended to overcome the 35 U.S.C. 102(b) rejection by Martino. Martino discloses a messaging services system similar to the messaging service 18 of the instant disclosure. As shown in Fig. 5 of Martino, one computer may send a message using one communication protocol to a receiving computer that uses another communication protocol. Martino accomplishes this communication across diverse operating environments through the messaging services system illustrated in Fig. 2 wherein each operating environment has a communications agent for sending and/or receiving messages. The process of sending and receiving messages using the communication agents of Fig. 2 is illustrated in detail in Figs. 6 and 7, respectively. Therefore, Martino discloses sending messages from a first application to a second application through a messaging services system. The second application may then read and display the messages from a queue on the messaging services system.

The instant disclosure is directed to testing a messaging services system, such as that disclosed by Martino, as discussed in paragraph 18. This is accomplished through the message manager 10 of the instant disclosure. As disclosed in paragraph 21 of the instant disclosure the

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message manager 10 may read messages from a queue on a messaging service 18 wherein the "messages are directed to some other software components, modules, or applications". Therefore, the instant application discloses sending messages from a first application to a second application through a messaging services system. The messaging services system may be tested through a third application being able to read and display the messages from a queue on the messaging services system. Claim 1 has been amended in order to more particularly claim this difference.

In regard to Claim 21, Applicant notes that the Office Action relied on the INITIALIZE command of Martino to disclose the claimed "running the test application". The INITIALIZE command is not an application "which generates messaging service messages" as specified in Claim 21. Rather, as disclosed by Martino on column 9, lines 4-11, the INITIALIZE command "sets up sending and receiving queues for the calling application/process and for each local communications transport facility". The applications or processes shown in Fig. 2 of Martino are the only applications which generate messaging service messages and there is no disclosure of these applications being tested or of reading the messages "to verify whether the test application is operating properly". However, in the interest of expediting the prosecution of the instant application Claim 21 is amended in order to particularly claim the differences discussed above with regard to Claim 1.

In the Office Action dated March 30, 2006, Claims 13-16 were rejected under 35 USC § 102(e) as being anticipated by *Robinson* (U.S. Patent Application Publication 2003/0115366).

Similar to the disclosure of Martino, Robinson discloses a messaging services system where various messages generated by a JSP server 12 or applications 15 to be sent to a client 30

with a message retriever 31. Therefore, Robinson also discloses sending messages from a first application to a second application through a messaging services system. The second application may then read and display the messages from a queue on the messaging services system. Further, it is noted that server 20 is the only server, or "host computer" as asserted by the Office Action, in system 10. Also, Robinson only discloses one queue 17 in the server 20. Merriam-Webster's Online Dictionary defines the term select as "to choose from a number or a group". Therefore, since there is only one "host computer" and only one queue in the disclosure of Robinson then there is no teaching of "selecting a host computer" or "selecting a queue" as indicated by the claims. However, in the interest of expediting the prosecution of the instant application, Claim 13 is also being amended in order to particularly claim the differences discussed above with regard to Claim 1.

### Response to Rejections under Section 103

In the Office Action dated March 30, 2006, Claims 2-3 and 22 were rejected under 35 USC § 103(a) as being unpatentable over *Martino, II* (U.S. Patent No. 5,983,265) as applied to Claim 1 above, and further in view of *Robinson* (U.S. Patent Application Publication 2003/0115366).

Since Claim 1 has been amended to overcome the rejection based on Martino then the rejection in view of Robinson of Claims 2-3 similarly does not teach the newly added limitations.

Further, as Martino does not disclose each and every limitation of Claim 21 as discussed above and also does not disclose the newly added limitations to Claim 21, then the rejection in view of Robinson of Claim 22 similarly do not teach at least the newly added limitations of Claim 21.

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In the Office Action dated March 30, 2006, Claims 10 and 11 were rejected under 35 USC § 103(a) as being unpatentable over *Martino, II* (U.S. Patent 5,983,265) as applied to Claim 1 above, and further in view of *Ishmael, Jr., et al.* (U.S. Patent Application Publication No. 2002/0143947).

Since Claim 1 has been amended to overcome the rejection based on Martino then the rejection in view of Ishmael of Claims 10 and 11 similarly does not teach the newly added limitations.

In the Office Action dated March 30, 2006, Claims 17-19 were rejected under 35 USC § 103(a) as being unpatentable over *Robinson* (U.S. Patent Application Publication 2003/0115366) as applied to Claim 16 above, and further in view of *Ishmael, Jr., et al.* (U.S. Patent Application Publication No. 2002/0143947).

As Robinson does not disclose each and every limitation of Claim 13 as discussed above and also does not disclose the newly added limitations to Claim, 13 then the rejection in view of Ishmael of Claims 17-19 similarly does not teach at least the newly added limitations of Claim 13.

In the Office Action dated March 30, 2006, Claim 20 was rejected under 35 USC § 103(a) as being unpatentable over *Robinson* (U.S. Patent Application Publication 2003/0115366) in view of *Ishmael, Jr., et al.* (U.S. Patent Application Publication No. 2002/0143947) as applied to Claim 18 above, and further in view of *Landfield et al.* (U.S. Patent 5,928,333).

As Robinson does not disclose each and every limitation of Claim 13 as discussed above

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and also does not disclose the newly added limitations to Claim 13, then the rejection in view of Ishmael and Landfield of Claim 20 similarly does not teach at least the newly added limitations of Claim 13.

**US PG-PUB 2002/0143947 to Ishmael et al.**

Applicant has taken care to amend the claims of the instant application in order to avoid a possible rejection based on Ishmael. In summary, Ishmael discloses a first system, element 50 of Fig. 1, which may send a message directed to a second system, any of elements 52-54, 62-64, and 72-74 of Fig. 1. Ishmael further discloses a messaging services system, element 51, for providing the message to the second system through a queue (Ishmael: paragraph 21). Further, Ishmael discloses that the first system may read and display the messages on the queue in order to track the allocation and status of the messages (Ishmael: paragraph 23). Applicant notes that the claims have been amended herein to indicate that a third system, the message manager 10 of the instant disclosure, is operable to read and display the messages on the queue. This third system is independent of the message path since it neither generated nor is it directed to receive the message. By enabling a system independent of the message path to read messages from the queue, testing of the messaging system may be accomplished.

**Conclusion**

Applicant respectfully submits that the present application is in condition for allowance for the reasons stated above. If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (972) 731-2288.

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The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Respectfully submitted,

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